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Attorneys for Defendant,

GEISER BROS. DESIGN & DEVELOPMENT, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

PENNY DRAKE-TYNER; MICHAEL HANSEN,

CASE NO.:

Plaintiff,

NOTICE OF REMOVAL

v.

NICOLAS L. HATCHER: GEISER BROS.
DESIGN & DEVELOPMENT, INC., and DOES I
through V, ROE CORPORATIONS, I through V,
inclusive.

Defendants.

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEVADA

Defendant GEISER BROS. DESIGN & DEVELOPMENT, INC. (hereafter
“Defendant” or “Geiser Bros”) by and through its counsel of record, Troy A. Clark, Esq., of the
law firm of RESNICK & LOUIS, P.C., hereby remove this action to the United States District
Court for the District of Nevada.

The basis for the removal is as follows:

1. This Court has original jurisdiction over the subject matter of this action under the provisions of 28 U.S.C. § 1332 in that there is complete diversity between the parties and more than \$75,000 in controversy, exclusive of interests and costs.
2. Geiser Bros is a defendant in the above-entitled action now pending in the Eighth Judicial District, Clark County, Nevada, Case No. A-18-784432-C. Geiser Bros is an Arizona Corporation with its principal place of business in that state.

- 1 3. Plaintiffs state in their Complaint that Co-Defendant NICOLAS L. HATCHER is a
2 resident of the State of Arizona.
- 3 4. Plaintiffs PENNY DRAKE-TYNER and MICHAEL HANSEN (hereafter
4 “Plaintiffs”) are citizens of the State of Nevada.
- 5 5. With respect to the amount in controversy, Plaintiffs’ Complaint alleges damages in
6 excess of \$15,000. On April 2, 2019, defense counsel spoke with Plaintiffs’ counsel
7 who advised that Plaintiff Penny Drake-Tyner was alleging medical specials in
8 excess of \$63,000. Plaintiffs’ counsel also advised that Plaintiff Michael Hansen
9 was alleging medical specials in excess of \$70,000. These figures clearly exceed
10 the amount in controversy of \$75,000.00. Thus, this Court has jurisdiction to
11 entertain this matter based on diversity jurisdiction.
- 12 6. The Notice of Removal is Timely. Although Geiser Bros was served on February 7,
13 2019. Plaintiff’s Complaint only alleges “General damages in an amount in excess
14 of \$15,000.00”. On April 2, 2019, defense counsel called Plaintiffs’ counsel and
15 inquired as to the nature and extent of his clients’ alleged damages. Plaintiffs’
16 counsel informed defense counsel that that Plaintiff Penny Drake-Tyner was
17 alleging medical specials in excess of \$63,000. Plaintiffs’ counsel also advised that
18 Plaintiff Michael Hansen was alleging medical specials in excess of \$70,000. Upon
19 information and belief, this conversation was the first notice that Geiser Bros had
20 regarding the Plaintiffs’ alleged damages and medical specials. Removal is timely
21 pursuant to 28 U.S. Code § 1446(b)(3) as Plaintiffs’ initial Complaint did not
22 identify sufficient information to place Defendant on notice that the claims alleged
23 exceeded the amount in controversy diversity requirement. See Exhibit “A”,
24 Declaration of Troy A. Clark, Esq.
- 25 7. The following documents have been filed in this matter:
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1 Complaint was filed by Plaintiff on November 13, 2018, and copy of same is
2 attached hereto as Exhibit "B."

3 Summons dated November 15, 2018 is attached hereto as Exhibit "C."

4 Proof of Service dated February 21, 2019, with respect to Geiser Bros is
5 attached hereto as Exhibit "D."

6 Geiser Bros' Initial Appearance Fee Disclosure dated April 5, 2019 is attached
7 hereto as Exhibit "E."

8 Geiser Bros' Answer is attached hereto as Exhibit "F."

9 Geiser Bros' Demand for Jury Trial is attached hereto as Exhibit "G."

10 Plaintiffs filed a Motion to Extend Time to Serve Defendant Nicolas L. Hatcher
11 with Summons and Complaint, attached hereto as Exhibit "H."

12 The Court filed a Notice of Hearing dated March 3, 2019, attached hereto as
13 Exhibit "I."

14 The above listed exhibits constitute all of the papers and pleadings served on Geiser
15 Bros.

16 8. Geiser Bros have concurrently filed a copy of this Notice of Removal with the Clark
17 County District Court Clerk and have severed a copy of this document upon
18 Plaintiff.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing **NOTICE OF REMOVAL** was served this 11th day of April 2019, by:

☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada, addressed as set forth below.

☐ **BY FACSIMILE:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document.

☐ **BY PERSONAL SERVICE:** by causing personal delivery by an employee of Resnick & Louis, P.C. of the document(s) listed above to the person(s) at the address(es) set forth below.

☒ **BY ELECTRONIC SERVICE:** by transmitting via the Court's electronic filing services the document(s) listed above to the Counsel set forth on the service list on this date pursuant to EDCR Rule 7.26(c)(4).

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/s/ Jessica Rogers
An Employee of Resnick & Louis, P.C.